IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 927

JOHNNY WILLIAMS,
Petitioner,

v.

FLORIDA.

ON WRIT OF CERTIORARI TO THE
DISTRICT COURT OF APPEAL OF FLORIDA,
THIRD DISTRICT

REPLY BRIEF FOR PETITIONER

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I.

The Notice of Alibi Rule Is Unconstitutional

Respondent's constitutional defense that the notice of alibi rule is merely procedural is completely refuted in *Washington v. Texas*, 388 U.S. 14, 22.

> In light of the common-law history * * * that the Sixth Amendment was designed in part to make the testimony of a defendant's witnesses admissible on his behalf in court, it could hardly be argued that a State would not violate the clause if it made all defense testimony inadmissible as a matter of procedural law. It is difficult to see how the Constitution is any less violated by arbitrary rules that prevent whole categories of defense witnesses from testifying on the basis of *a priori* categories that presume them unworthy of belief.

The Oklahoma statute[1] constitutionally satisfies the purposes respondent advances for the rule without inconvenience to the State.

II.

Six Men Cannot Constitute a Jury

Respondent's proposal that the Court apply standards varying from federal values in interpreting Bill of Rights' guarantees has not heretofore gained acceptance by a majority of this Court. See *Kerr v. California*, 374 U.S. 23 at 30, *Aguilar v. Texas*, 378 U.S. 108 at 110, *Pointer v. Texas*, 380 U.S. 400 at 407, *Malloy v. Hogan*, 378 U.S. 1 at 7.

> It is not a license to the judiciary to administer a watered-down, subjective version of the individual guarantees of the Bill of Rights when state cases come before us. *Eaton v. Price*, 364 U.S. 263, 275.

Respectfully submitted,

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Attorney for Petitioner

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[1] Title 22 § 585: "Whenever testimony to establish an alibi on behalf of the defendant shall be offered * * * and notice of the intention * * * shall not have been served * * *, the court may grant a postponement for such time as it may deem necessary * * *.